

# EXHIBIT G

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NASSAU : PART 40

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THE PEOPLE OF THE STATE OF NEW YORK, :

-against- : IND. # 1364N/04

THOMAS HARTMANN, :

Defendant. :

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262 Old Country Road  
Mineola, New York 11501  
January 24, 2005

B E F O R E:

HON. CLAIRE I. WEINBERG,  
Acting Supreme Court Judge

APPEARANCES:

HON. DENIS DILLON,  
Nassau County District Attorney  
BY: KYLE I. ROSE, ESQ.,  
Assistant District Attorney  
For the People

DENNIS LEMKE, ESQ.,  
114 Old Country Road  
Mineola, New York  
For the Defendant

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Change of Plea  
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Jane Bartley, CSR  
Official Court Reporter

1 THE CLERK: Added to the calendar,  
2 Indictment 1364N of '04, Thomas Hartmann.

3 MR. LEMKE: For Mr. Hartmann, your Honor,  
4 Dennis Lemke, 114 Old Country Road, Mineola, New  
5 York.

6 Good morning, your Honor.

7 MS. ROSE: For the People, Kyle Rose.

8 Good morning.

9 THE CLERK: You are Thomas Hartmann?

10 THE DEFENDANT: Yes.

11 THE CLERK: You appear here today with your  
12 attorney, Mr. Lemke, under Indictment 1364N of '04?

13 THE DEFENDANT: Yes, sir.

14 THE CLERK: Is there an application?

15 MS. ROSE: Your Honor, there is.

16 Defendant, Thomas Hartmann, is charged under  
17 Indictment 1364N of '04 with criminal contempt in the  
18 first degree; aggravated harassment in the second  
19 degree, four counts; menacing in the third degree,  
20 two counts; resisting arrest, a violation of Section  
21 1212 of the Vehicle and Traffic Law, which is  
22 reckless driving; and reckless endangerment in the  
23 second degree.

24 At this time the People would be moving to  
25 reduce the first count of the indictment, which

1 charges the defendant with criminal contempt in the  
2 first degree. We will be moving to reduce that to  
3 criminal contempt in the second degree, in violation  
4 of Section 215.50 subdivision three of the Penal Law,  
5 a class A misdemeanor.

6 With respect to count number four, which  
7 charges the defendant with aggravated harassment in  
8 the second degree, a class A misdemeanor, in  
9 violation of Section 240.30 subdivision one of the  
10 Penal Law, the People anticipate a plea of guilty to  
11 that charge.

12 Lastly, with respect to count eight of the  
13 indictment —

14 THE COURT: Just a minute. He is going to  
15 plead guilty to count four, which is 240.30  
16 subdivision one?

17 MS. ROSE: That's correct.

18 THE COURT: Okay.

19 MS. ROSE: And with respect to count eight  
20 of the indictment, which charges the defendant with  
21 resisting arrest, in violation of Section 205.30 of  
22 the Penal Law, also a class A misdemeanor, the People  
23 anticipate a plea of guilty to that charge.

24 Those three anticipated pleas of guilty  
25 would satisfy Indictment 1364N of '04. The remaining

1 charges would be dismissed in satisfaction, not on  
2 the merits, but dismissed in satisfaction of the  
3 anticipated pleas of guilty.

4 THE COURT: So he is going to be pleading  
5 guilty to the 215.50 that you have reduced under  
6 count one?

7 MS. ROSE: Yes.

8 THE CLERK: Sub three?

9 MS. ROSE: Sub three.

10 Your Honor, the plea is conditioned upon  
11 defendant, of course, pleading guilty to those three  
12 counts, providing the Court with truthful testimony  
13 with respect to the facts of the case, also waiving  
14 his right to appeal both the conviction today and  
15 later sentence of this Court.

16 It's our understanding that the defendant  
17 has had discussions with his attorney concerning his  
18 waiver of right to appeal and that he voluntarily  
19 chooses to waive his right to appeal.

20 The plea is also done -- I'm sorry. We  
21 believe this proposed disposition to be in the  
22 interest of justice. We ask the Court to accept this  
23 plea. Thank you, your Honor.

24 MR. LEMKE: Your Honor, we join in the  
25 People's application in all respects. We have

1           conferenced this matter on a number of occasions as  
2           well as speaking to, I wouldn't say so much  
3           co-counsel but an attorney who is handling his civil  
4           matter, as well, Mr. Hanson. We are all in agreement  
5           with this disposition, your Honor. Thank you.

6       T H O M A S   H A R T M A N N, the defendant, having  
7           been first duly sworn by the Clerk of the Court,  
8           was examined and testified as follows:

9                       THE COURT: Mr. Hartmann, how old are you?

10                      THE DEFENDANT: I'm 36.

11                     THE COURT: And do you read and write  
12           English?

13                     THE DEFENDANT: Yes.

14                     THE COURT: Are you a citizen of the United  
15           States?

16                     THE DEFENDANT: Yes.

17                     THE COURT: I have a series of questions  
18           that I must ask you.

19                     What was the last grade you completed in  
20           school?

21                     THE DEFENDANT: GED.

22                     THE COURT: And do you feel in good  
23           physical and mental health as you stand here today?

24                     THE DEFENDANT: Not really physical. I  
25           mean --

1 THE COURT: I know you have physical  
2 problems, but are any of those problems affecting  
3 your ability to understand and take this plea today?

4 THE DEFENDANT: No..

5 THE COURT: Okay. Have you taken any  
6 alcohol or any drugs within the last 24 hours, and I  
7 know that you have taken prescription medication.

8 THE DEFENDANT: Yes.

9 THE COURT: Does that affect in any way  
10 your ability to understand or take this plea today?

11 THE DEFENDANT: No.

12 THE COURT: Have you ever been treated or  
13 confined to a hospital for any mental illness?

14 THE DEFENDANT: No.

15 THE COURT: Do you feel that you've had  
16 sufficient time to consult with your attorney before  
17 deciding to plead guilty?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Are you satisfied with the  
20 manner in which your attorney has represented you?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: You understand, of course, that  
23 you do have the right to a trial by jury with the  
24 assistance of your attorney and that the district  
25 attorney would have to prove your guilt beyond a

1 reasonable doubt?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: You also have the right to hear  
4 the witnesses against you and to have your attorney  
5 cross-examine those witnesses against you.

6 You have the right to take the witness  
7 stand and testify in your own behalf but you have no  
8 obligation to do that at all.

9 You have the right to bring in witnesses to  
10 testify for you, and by pleading guilty you are  
11 giving up all of these and other rights. Do you  
12 understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: You understand that a plea of  
15 guilty is the same as a conviction after trial?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Has anyone made any threats to  
18 induce you to give up your right to trial or to force  
19 you to plead guilty?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: You understand that you are  
22 subject to up to one year in the Nassau County Jail,  
23 actually a year and a year consecutive on these three  
24 charges.

25 The Court has made a prior commitment of



1        what we call a split sentence, which will be 60 days  
2        and probation. I have ordered a probation report.  
3        If after reading that report, I can't keep the  
4        promise, you could withdraw your plea. I certainly  
5        don't intend to do that today though, I will order  
6        the report.

7                MR. LEMKE: Thank you.

8                THE COURT: On the other hand, there are  
9        three conditions under which you would not be allowed  
10       to withdraw your plea and the Court would not feel  
11       bound by that promise. One is if you don't cooperate  
12       with probation, or two, if you don't appear here on  
13       the day of the sentence, or three, if you get  
14       arrested between now and the date of the sentence.  
15       Any one of those three things happen, no promise and  
16       no ability to withdraw your plea. Understood?

17               THE DEFENDANT: Yes your Honor.

18               THE COURT: You are also being asked to  
19       give up your right to appeal. You do have the right  
20       to appeal to a higher court in regard to the plea and  
21       sentence in this case and they are asking you, the  
22       People are asking you to give up that right to  
23       appeal. Have you discussed with your attorney giving  
24       up your right to appeal?

25               THE DEFENDANT: Yes, your Honor.

1 THE COURT: Has anyone made any threats to  
2 force you to give up your right to appeal?

3 THE DEFENDANT: No, your Honor.

4 THE COURT: Are you giving up your right to  
5 appeal voluntarily?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: By giving up your right to  
8 appeal you understand that no higher court will  
9 review what happens in this case?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Are you presently on probation  
12 or parole?

13 THE DEFENDANT: No, your Honor.

14 THE COURT: Have you previously been  
15 convicted of a felony?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Actually, that will not affect  
18 you with this plea.

19 On August 4th, 2003 in Nassau County, New  
20 York, you knew that there was an order of protection  
21 in effect; is that correct?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: And you violated that order by  
24 repeatedly calling Kim Hartmann; is that correct?

25 THE DEFENDANT: Yes, your Honor.

1 MR. LEMKE: I'm sorry, what day was that,  
2 your Honor?

3 MS. ROSE: September 2nd.

4 THE COURT: I'm sorry, what is the date?

5 MR. LEMKE: I believe it's September 2nd,  
6 and August 4th, 2003 was the —

7 THE COURT: Was the date that the order was  
8 signed?

9 MR. LEMKE: That's correct, Judge, by Judge  
10 Sullivan.

11 THE COURT: Okay. On September the 2nd,  
12 you violated the order by continuously calling Kim  
13 Hartmann, correct?

14 THE DEFENDANT: Yes.

15 THE COURT: And on March 11th of 2004 you  
16 threatened Thomas McCaffery; is that correct?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: And on March the 12th of 2004  
19 in Nassau County, New York, did you resist arrest?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: So under count one, how do you  
22 plead to criminal contempt in the second degree, an A  
23 misdemeanor?

24 THE DEFENDANT: Guilty.

25 THE COURT: Under count four, how do you

1 plead to aggravated harassment?

2 THE DEFENDANT: Guilty.

3 THE COURT: And under count eight, how do  
4 you plead to resisting arrest?

5 THE DEFENDANT: Guilty.

6 THE COURT: Pleas accepted.

7 THE CLERK: Do you now wish to withdraw  
8 your previously entered plea of not guilty to  
9 Indictment 1364N of '04 and enter a plea of guilty to  
10 criminal contempt in the second degree, Penal Law  
11 Section 215.50 subdivision three; aggravated  
12 harassment in the second degree, Penal Law Section  
13 240.30 subdivision one; and resisting arrest, Penal  
14 Law Section 205.30?

15 THE DEFENDANT: Guilty.

16 THE CLERK: Date for sentence, Judge.  
17 March 21st?

18 THE COURT: 3/21 for sentence.

19 Are you going to be able to make it over to  
20 probation today?

21 THE DEFENDANT: Yes, your Honor.

22 THE CLERK: Let the record reflect  
23 defendant is being handed a copy of his court order  
24 for pre-sentence investigation and report and being  
25 directed to appear today at the Department of

1 Probation.

2 Your case has been adjourned to March 21st.  
3 If you fail to appear on that day, warrant will be  
4 issued for your arrest, you'll be subject to  
5 additional charges of bail jumping and you can be  
6 sentenced in your absence. Do you understand?

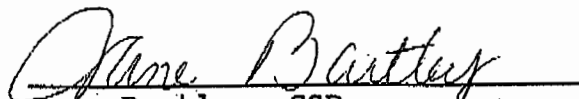
7 THE DEFENDANT: Yes.

8 MR. LEMKE: Thank you, your Honor.

9 (The proceedings were concluded.)  
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11  
12 C E R T I F I C A T I O N

13 I hereby certify that the foregoing is a  
14 true and accurate transcript of the proceedings.

15   
16 Jane Bartley, CSR  
17 Official Court Reporter  
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